

## The seal of the University of Cambridge, featuring a shield with a cross, a book, and a lion, surrounded by the text 'UNIVERSITY OF CAMBRIDGE' and 'FUND. 1209'.

No. 13-0729 RI

1. At all times relevant to these findings, Coolman lived in Cameron, Missouri.

### 2003 Missouri Income Tax

2. In 2003, Coolman worked for the Cameron R-I School District and received wages for his services. These wages totaled \$39,526.

3. In July 2003, Coolman transferred real property through Nebraska Title Company and realized \$33,000 in gross proceeds from the sale.

4. Coolman's 2003 federal adjusted gross income ("FAGI") was \$72,526. Based on this amount, Coolman initially owed \$3,716 in Missouri income tax for 2003.

5. Coolman did not file a 2003 Missouri income tax return.

6. On December 1, 2010, the Director sent Coolman a Notice of Deficiency indicating Coolman owed \$3,716 in 2003 Missouri income tax, \$929 in additions to 2003 Missouri income tax, and interest at the statutory rate.

7. On January 12, 2011, Coolman protested the Director's Notice of Deficiency. Along with this protest, Coolman supplied the Director with a copy of his 2003 W-2 Wage and Tax Statement.<sup>1</sup> The 2003 W-2 Wage and Tax Statement indicated Coolman's employer withheld \$1,451 in 2003 Missouri income tax.

8. On February 23, 2011, the Director issued his Notice of Adjustment for 2003. The Director credited Coolman with \$1,451 in 2003 Missouri income tax and recalculated Coolman's 2003 Missouri income tax owed as \$2,265, \$566.25<sup>2</sup> in additions to 2003 Missouri income tax, and \$972.41 in interest. The total amount due was \$3,803.66.

9. On May 11, 2012, Coolman submitted a check to the Director in the amount of \$3,803.66. This amount paid Coolman's 2003 Missouri income tax liability, additions, and interest in full.

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<sup>1</sup> Coolman failed to previously provide his 2003 W-2 Wage and Tax Statement when he failed to file a 2003 Missouri income tax return.

<sup>2</sup> As we discuss below in our Conclusions of Law, we agree with the Director on this amount of additions and take this as both our finding and the amount included on the Director's Notice of Adjustment to Coolman.

### 2008 Missouri Income Tax

10. In 2008, Coolman worked for the Cameron R-I School District and received wages for his services. These wages totaled \$51,617.

11. Coolman's 2008 FAGI was \$51,719. Based on this amount, Coolman owed \$2,425 in Missouri income tax for 2008.

12. Coolman did not file a 2008 Missouri income tax return.

13. On March 28, 2012, the Director sent Coolman a Notice of Deficiency indicating Coolman owed \$2,425 in 2008 Missouri income tax, \$606.25<sup>3</sup> in additions to 2008 Missouri income tax, and interest at the statutory rate.

14. On August 6, 2012, the Director issued his Notice of Adjustment for 2008. The Director recalculated Coolman's 2008 Missouri income tax owed as \$454, \$113.50 in additions to 2008 Missouri income tax,<sup>4</sup> and interest at the statutory rate.

15. On August 7, 2012, the Director intercepted \$429.39 of Coolman's 2009 Missouri income tax refund. This amount was applied to the amount Coolman owed for 2008 Missouri income tax, plus additions, and interest at the statutory rate. This left Coolman with a 2008 Missouri income tax balance owed of \$190.02 plus statutory interest accruing from August 7, 2012 on the remaining balance.

### Director's Final Decision

16. On April 3, 2013, the Director issued his final decision that Coolman was not entitled to a refund for 2003 Missouri income tax and owes \$190.02 plus interest at the statutory rate for 2008 Missouri income tax.

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<sup>3</sup> As we discuss below in our Conclusions of Law, we agree with the Director on this amount of additions and take this as both our finding and the amount included on the Director's Notice of Deficiency to Coolman.

<sup>4</sup> As we discuss below in our Conclusions of Law, we agree with the Director on this amount of additions and take this as both our finding and the amount included on the Director's Notice of Adjustment to Coolman. The Director's final decision, discussed below, indicates 25% addition to 2008 Missouri income tax was imposed. We calculated this amount of addition from this percentage.

## Conclusions of Law

This Commission has jurisdiction over appeals from the Director's final decisions. Section 621.050.1.<sup>5</sup> Our review is *de novo*.<sup>6</sup> Our duty in a tax case is not to review the Director's decision, but to find the facts and to determine, by the application of existing law to those facts, the taxpayer's lawful liability.

Coolman bears the burden to show his tax liability for 2003 and 2008 is something other than what the Director assessed.<sup>7</sup> Instead, he argued the Director had no basis for assessing Missouri income tax at all. Because Coolman failed to provide evidence regarding the amounts assessed by the Director, he failed to meet his burden. Accordingly, we uphold the assessments of the Director for 2003 Missouri income tax and 2008 Missouri income tax.

Section 143.011 provides:

A tax is hereby imposed for every taxable year on the Missouri taxable income of every resident.

Accordingly, we disagree with Coolman's argument that the Director has no authority to assess Missouri income tax and that he is not liable for Missouri income tax.

## Additions

Additions to tax are imposed by statute as a consequence for failure to file a return "on or before the fifteenth day of the fourth month following the close" of the tax year.<sup>8</sup>

Section 143.741.1 provides:

In case of failure to file any return required under sections 143.111 to 143.996 on the date prescribed therefor..., unless it is shown that such failure is due to reasonable cause and not due to willful

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<sup>5</sup>Statutory references are to the 2000 Revised Statutes of Missouri, unless otherwise noted.

<sup>6</sup>*J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

<sup>7</sup>Sections 621.050.2 and 143.661.

<sup>8</sup>Section 143.511.

neglect, there shall be added to the amount required to be shown as tax on such return five percent of the amount of such tax if the failure is not for more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent in the aggregate...

Section 143.751 provides:

1. If any part of a deficiency is due to negligence or intentional disregard of rules and regulations (but without intent to defraud) there shall be added to the tax an amount equal to five percent of the deficiency. The director shall apprise the taxpayer of the factual basis for the finding of negligence, or the specific rules or regulations disregarded, at the time the director issues a proposed assessment. . . .

Negligence is “the failure to make a reasonable attempt to comply with the state tax laws.”<sup>9</sup> Coolman presented us with no evidence that he made an attempt to comply with Missouri tax law requiring him to file a return every year. We infer from his arguments that his noncompliance was both willful and intentional. An addition to tax is justified here. We agree with the Director and impose an addition of \$566.25 on 2003 Missouri income tax and \$113.50 on 2008 Missouri income tax. Because additions for both 2003 and 2008 Missouri income taxes have been paid, Coolman does not owe further additions to income tax for these years.

#### Interest

Section 143.731 imposes interest on an underpayment of income tax, from the date the payment was due, in the rate determined by § 32.065. Coolman is liable for interest at this rate, beginning August 7, 2012, on the remaining balance owed for 2008 Missouri income tax, which is \$190.02.

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<sup>9</sup> *Hiatt v. Director of Revenue*, 899 S.W.2d 870, 872 (Mo. banc 1995).

### **Summary**

Coolman is liable for \$190.02 for 2008 Missouri income tax plus statutory interest accruing from August 7, 2012.

SO ORDERED on May 23, 2014.

\s\ Sreenivasa Rao Dandamudi  
SREENIVASA RAO DANDAMUDI  
Commissioner